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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/29/2007

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EXAMINER

COLE, ELIZABETH M

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/652,651	Applicant(s) BROUARD ET AL.	
	Examiner Elizabeth M. Cole	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10, 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claim 7s is objected to because of the following informalities: the claim uses the same reference number (48) to refer to the central layer and to the reinforced material. Appropriate correction is required.

2. Claims 7 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 7, the specification does not provide support for the limitation that the latex is injected. In claim 15, the specification does not provide support for the limitation that the mushroom shaped hooks are shorter than corresponding J shaped hooks.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-10, 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanes, US Patent Application Publication 2002/0182369 in view of Manor et al, U.S. Patent No. 5,807,161 and Shepard et al, U.S. Patent NO. 6,329,016. Hanes discloses a protection system for preventing floors from becoming damaged due to

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moving furniture, (see abstract), comprising a first layer which is adhesively bonded to the base of a piece of furniture and which comprises a plurality of hooks (paragraph 0012) and a second layer comprising a felt layer which may be either natural or synthetic fibers which comprises a plurality of loops which engage with the hooks of the first layer, (paragraph 0037). Thus the loops comprise some of the fibers of the felt. The felt layer may further comprise another layer of felt on the other side of the loops. It is noted that the process limitations are not given patentable weight since the loop containing layers would comprise a solid polymeric material and the method by which the material is formed does not serve to further limit the claimed article. Hanes differs from the claimed invention because Hanes does not disclose that the hooks are formed on a piece of felt fabric. However, since Hanes teaches that felt fabrics are soft and protective, it would have been obvious to have attached the hooks of layer 20 to a felt material motivated by the teaching of Hanes that felt fabric provide protection to structures which are in danger of be scratched in order to protect the furniture itself and not just the floor from abrasion during moving. By attaching the hooks to a felt layer the adhesive layer 30 would then be applied to the felt layer. With regard to the new limitation that the felt is free of low melt fibers, although Hanes does teach a preferred embodiment wherein the loops are formed of polyester fibers having a lower melting point than the other fibers in the felt in paragraph 0039, Hanes does not require that the loops be formed of the lower melting point fibers, and Hanes also teaches that other fibers can be used in paragraph 0038.

Hanes differs from the claimed invention because Hanes does not specifically disclose that the loops are mushroom shaped, but instead teaches that hook may be any well –known shape. See paragraph 0035. Manor is relied on to show that mushroom shaped hooks are a well known shape and were recognized as equivalent to j-shaped hooks at the time the invention was made. See col. 6, line 54 – col. 7, line 19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a mushroom shaped hook. One of ordinary skill in the art would have been motivated to employ a mushroom shaped hook by the teaching of Manor that such hooks were art recognized equivalents to j-shaped hooks.

Hanes differs from the claimed invention because it does not teach providing a reinforced central layer in the felt layer which forms the loops for engaging the hooks. Shepard et al teaches impregnating the fibrous layers which form the loops in hook and loop fasteners with sufficient binders to provide integrity to the loop material. The binders can be latex binders. See col. 9, lines 7-64. Shepard teaches controlling the amount and penetration of the binder so that it does not interfere with the functioning of the loops and does not make the pad overly stiff. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a latex binder in an amount suitable to provide sufficient strength to the pad of Hanes as taught by Shepard without using so much so as to interfere with the function of the loops.

5. The Declaration under 37 CFR 1.132 filed 10/4/07 is insufficient to overcome the rejection of claims 7-10, 12-15 based upon Hanes in view of Manor as set forth in the

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last Office action because: while the Declaration does show that the mushroom shaped hooks provide improved shear resistance, since Hanes teaches any type of hooks can be used and specifically mentions J hooks and Manor teaches that mushroom shaped hooks are a well known hook shape which was recognized in the art as an equivalent of J shapes, considering the record as a whole and the totality of the evidence, the person of ordinary skill in the art would have found it obvious have employed mushroom shaped hooks in the invention of Hanes. Further, it is noted that the data set forth in the declaration relates to a particular height of the hooks, where the mushroom shaped hooks are much shorter than the J hooks, but the instant claims do not recite a height of the hooks. Therefore, the showing is not commensurate in scope with the claims. Finally, since the heights of the j-shaped hooks and the mushroom shaped hooks which are used in the declaration are different, it is not clear whether it is the height or the hook shape which is providing the improved shear resistance.

6. Applicant's arguments filed 11/2/07 have been fully considered but they are not persuasive.

7. Applicant argues that although mushroom shaped hook are known, it is not obvious that such hooks would provide the improved shear resistance. However, since Manor teaches that mushroom shaped hooks and J shaped hooks were both known to be useful as the hooks for hook and loop fasteners. "The fact that appellant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious." *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd.Pat. App. & Inter. 1985).

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Therefore, even though Applicant has recognized another advantage of high shear resistance which flows from the use of mushroom-shaped hooks, since Manor already clearly teaches the use of the mushroom shaped hooks as an alternative known hook type to J-shaped hooks, the use of the mushroom shaped hooks would be obvious.

8. Applicant's arguments regarding the lack of a central reinforced core region in the felt layer in the invention of Hanes have been fully considered but are moot in view of the new grounds of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571)

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272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

e.m.c